

AGENCY MEMBERS PRESENT

Gene Caldwell, M.D., Chairman
Carl Koella, III, Vice Chair
Cheryl Cunningham
Peggy Troy
Kristin Coile, designee for the Commissioner of Commerce and Insurance
Faye Weaver, designee for the Comptroller of the Treasury

AGENCY MEMBERS ABSENT

Bryan Atchley
E. Conrad Shackelford, M.D., designee for the TennCare Director
Vacant – Tennessee Association of Home Care Representative
Vacant – TMA Representative

AGENCY STAFF PRESENT

Melanie Hill, Executive Director
Reid Brogden, General Counsel
Rhonda Blair, Office Manager
Melissa Bobbitt, Administrative Services Assistant II
Sue Kerley, Administrative Assistant I
Jeff Grimm, Health Planner III
Phil Wells, Health Planner III

GUESTS PRESENT

Jerry W. Taylor, Esq., Farris, Mathews, Branan, Bobango Hellen, & Dunlap, PLC
John L. Wellborn, Consultant, Development Support Group
Dan H. Elrod, Esq., Miller & Martin
E. Graham Baker, Esq., Weeks, Anderson & Baker
Kim H. Looney, Esq., Stokes, Bartholomew, Evans & Petree
Byron Trauger, Esq., Trauger, Ney & Tuke
Richard Lodge, Esq., Bass, Berry & Sims
Alix Coulter Cross, Esq., Harwell, Howard, Hyne, Gabbert & Manner
Gayle Mahan, Administrator, Gastrointestinal Associates
Marti Miller, RN/RVP, Adventa Hospice
Michelle Lauer, Adventa Hospice
Merry Miller Weis, Executive Director, Hospice of the Highland Rim
Jean Silfies, RN, Administrator, Hospital Home Health & Hospice
Fran Couch Gray, Director Volunteer Services, Hospice of the Highland Rim
George Winton, M.D., Tri-Cities Skin and Cancer
Bruce Duncan, VP, NHC Healthcare
Mike Ussery, VP, NHC Healthcare
Dere Brown, NHC Healthcare
Cheri Cropper, Administrator, NHC Sparta
Steve Sloan, CFO, Northcrest Medical Center
William Kenley, CEO, Northcrest Medical Center
Howard Mize, Jr., M.D., Appalachian Orthopaedic Associates, P.C.
Jim Brasfield, Bristol Neurosurgical Associates
Eddie A. George, President/CEO, Wellmont Health System
Dixie Taylor-Huff, Owner, White House Health Care
Gail Vaughn Ashworth, Esq., Gideon & Wiseman
Betsy Wood, THA
Thomas Cravens, Esq., Kramer, Rayson, Leake, Rodgers & Morgan
Ben Delp, Bass, Berry & Sims
Barbara Houchin, St. Thomas Health Systems
David McMillan, PYA
Montye. McLauren, Indian Path Medical Center

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Matt Dewbill, RADS
Robyn Coates, Memorial Health Care System
W.A. McIlwain, Bristol Ortopaedics
Victor T. Freurd, Bristol Memorial Associates
Linda Penny, Comptroller's Office
Chris Puri, THCA
Danell Corritore, Department of Health
Loring Katawaia, Department of Health

Chairman Caldwell called the meeting to order at 8:30 a.m. in the Main Auditorium of the Bell South Tower, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, introduced the Agency's new hospital representative member Peggy Troy, and new staff member Sue Kerley, Administrative Assistant 1. Ms. Hill made general announcements which included the deferral of BioImaging at Charlotte, Inc.'s Certificate of Need application, No. CN0406-057, to the October meeting due to a quorum issue.

CONSENT CALENDAR APPLICATION

Melanie Hill summarized the following CON applications:

The Endoscopy Center North - (Knoxville, Knox County) - Project No. CN0407-070

The establishment of an ambulatory surgical treatment center (ASTC) limited to gastroenterology at 623 East Emory Road, Knoxville (Knox County), TN 37938. This project replaces and changes ownership of a similar, unimplemented facility approved in the same area, under CN0208-069. The proposed facility will be developed in 4,213 SF of space leased in the existing PlastiLine building. It will contain two (2) procedure rooms and eight (8) pre-and post-op recovery spaces, and other support areas; and it will share use of 1,164 SF of support space in the adjoining practice office of Gastrointestinal Associates. The project will be licensed as an ambulatory surgical treatment center (ASTC) limited to gastroenterology by the Tennessee Department of Health. The project will not contain major medical equipment or initiate or discontinue any health service; and it will not affect any licensed bed complements. Project Cost \$2,234,326.00.

Gayle Mahan addressed the Agency on behalf of the project, and John Wellborn, Consultant, was present in support of the project.

Mr. Koella moved for approval of the project based on: 1) Need – The need was previously established and approved in the last application; 2) Economic Feasibility – The project is economically feasible with a combination of commercial loans and lease in place; and 3) The project does contribute to the orderly development of adequate and effective health care and licenses are appropriate. **CONDITION: Limited to gastroenterology procedures.** Ms. Coile seconded the motion. The motion CARRIED [6-0-0]. **APPROVED.**

AYE: Coile, Troy, Koella, Cunningham, Weaver, Caldwell
NAY: None

CERTIFICATE OF NEED APPLICATIONS

Melanie Hill summarized the following CON applications:

Neurosurgical Associates, P.C. - (Knoxville, Knox County) - Project No. CN0404-036

The purchase of a magnetic resonance imaging (MRI) scanner and the initiation of MRI services in a shared arrangement with Knoxville Neurology Clinic, PLLC. The MRI services will be provided as a clinical ancillary service of Neurosurgical Associates' physician group practice. The total estimated cost is \$2,629,455. Neurosurgical Associates is responsible for one half of the project cost which is estimated at \$1,314,727.50.

WITHDRAWN

Knoxville Neurology Clinic, PLLC - (Knoxville, Knox County) - Project No. CN0404-035

The purchase of a magnetic resonance imaging (MRI) scanner and the initiation of MRI services in a shared arrangement with Neurosurgical Associates, P.C. The MRI services will be provided as a clinical ancillary service of Knoxville Neurology Clinic physician group practice. The total estimated cost is \$2,629,455. Knoxville Neurology Clinic is responsible for one half of the project cost which is estimated at \$1,314,727.50. Project Cost \$1,314,727.50.

WITHDRAWN

Adventa Hospice, Inc. - (South Pittsburg, Marion County) - Project No. CN0404-031

The addition of Bedford, Coffee, Lincoln, and Moore counties to the licensed service area of Adventa Hospice, Inc. located at 5959 Shallowford Road, Building 500A, Suite 505, Chattanooga, TN. The service area currently includes the following counties: Franklin, Warren, Grundy, Marion, Van Buren, Sequatchie, Hamilton, Bledsoe, Rhea, Meigs, McMinn, Bradley and Polk. Adventa Hospice, Inc. intends to serve Bedford, Coffee, Lincoln and Moore counties from its South Pittsburg hospice multiple site office. The location of the existing parent office in Hamilton County will not change as a result of the project. Major medical equipment is not required as part of this project, nor will the number of beds be affected by this request. Project Cost \$3,000.00.

Alix Coulter Cross, Esq., representing the applicant, addressed the Agency. Marti Miller, Michelle Lauer, and Barry Summerville spoke on behalf of the project.

Merry Miller Weis of Hospice of the Highland Rim and Jean Silfies, RN of Hospital Home Health & Hospice opposed. Fran Cunch Gray of Hospice of the Highland Rim was present in opposition.

Ms. Cross rebutted.

Ms. Weis and Ms. Silfies provided summation for opposition.

Ms. Cross provided summation for the applicant.

Mr. Koella moved for denial of the project based on: 1) Need – No compelling evidence of need was reflected in the Department of Health's summary or from consumers or other health care organizations in the area; and there is concern regarding the amount of charity care; 2) Economic Feasibility – The project is not economically feasible; and 3) The project does not contribute to the orderly development of adequate and effective health care. Ms. Coile seconded the motion. The motion CARRIED [5-1-0]. **DENIED**

AYE: Coile, Troy, Koella, Cunningham, Caldwell
NAY: Weaver

Tri-Cities Skin & Cancer - (Johnson City, Washington County) - Project No. CN0405-042

The establishment of an ambulatory surgical treatment center (ASTC) for the performance of Mohs micrographic surgery and associated wound reconstruction limited to the use by the physicians and patients of Tri-Cities Skin and Cancer in the normal course of treatment. The facility will be located at 1009 N State of Franklin Access Rd., Johnson City, TN 37604. No beds will be required. Project Cost \$412,492.02.

Dr. George Winton addressed the Agency on behalf of the project.

Dan H. Elrod, Esq., representing Mountain States Health Alliance and Johnson City Medical Center opposed the application unless it was limited to the following: 1) Mohs micrographic surgery with the associated reconstruction of cutaneous surgical wounds; 2) Ambulatory phlebotomy or stab phlebotomy; and 3) Endovascular laser ablation of the saphenous vein.

Dr. Winton rebutted.

Ms. Cunningham moved for approval of the project based on: 1) Need – The practice is growing; 2) Economic Feasibility – The project is economically feasible as the facility's operating lease and financing is in place; and 3) The project does contribute to the orderly development of adequate and effective health care. There is no

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duplication of services and the project has support from the hospitals. **CONDITION: Limited to: 1) Mohs micrographic surgery with the associated reconstruction of cutaneous surgical wounds; 2) Ambulatory phlebotomy or stab phlebotomy; and 3) Endovascular laser ablation of the saphenous vein.** Mr. Koella seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Coile, Troy, Koella, Cunningham, Weaver, Caldwell

NAY: None

NHC HealthCare, Sparta - (Sparta, White County) - Project No. CN0406-051

The construction of a nursing home replacement facility at the northeast quadrant of the intersection of Highway 111 and Fred Hill Road in White County. The center will include one hundred twenty (120) nursing home beds and will be certified for Medicare and Medicaid participation. Project Cost \$8,608,500.00.

Dan H. Elrod, Esq., representing the applicant, addressed the Agency. Mike Ussery, Vice President spoke on behalf of the project. Bruce K. Duncan, Asst. Vice-President, and Cheri Cropper, Administrator were present in support of the project.

Mr. Koella moved for approval of the project based on: 1) Need – The need is evident as the existing facility was built in the 1950's, needs better bathrooms to be ADA compliant, and it will replace existing beds; 2) Economic Feasibility – The project is economically feasible through the commercial lease; and 3) The project does contribute to the orderly development of adequate and effective health care. The licenses are current, the applicant is a TennCare provider and there is strong community support. Ms. Weaver seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Coile, Troy, Koella, Cunningham, Weaver, Caldwell

NAY: None

Vanderbilt University Hospital - (Montgomery, Clarksville County) - Project No. CN0406-052

The addition of the twelve (12) neonatal intensive care unit (NICU) beds to the license of Vanderbilt University Hospital (VUH) in Nashville (Davidson County), Tennessee and the subsequent delicensure of twelve (12) NICU beds from the Gateway Medical Center in Clarksville (Montgomery County), Tennessee. No beds will be physically relocated. VUH will operate the unit in space leased from Gateway Medical Center. Thus, the responsibility for the unit will reside with VUH while Gateway Medical Center will serve as landlord. The service area for the project is Montgomery, Houston, and Stewart Counties in Tennessee and Christian and Todd Counties in Kentucky. The project does not include any major medical equipment. Project Cost \$776,646.00.

DEFERRED TO THE OCTOBER MEETING

NorthCrest Medical Center - (Springfield, Robertson County) - Project No. CN0406-053

The acquisition of an additional magnetic resonance imaging (MRI) unit for a total complement of two (2) stationary MRI units operated under the hospital's licensure. The new 1.5 Tesla MRI unit and some of the hospital's existing diagnostic equipment, including CT, mammography, X-Ray, Ultrasound, and bone desitometry equipment will be operated on the ground floor of a medical office building under development on the hospital campus at 100 NorthCrest Drive in Springfield (Robertson County), TN 37172. The existing MRI unit will remain in operation in the main hospital building. NorthCrest Medical Center has a management agreement with HCA. No beds are affected as a result of this proposal. Project Cost \$3,438,437.12.

Kim Harvey Looney, Esq., representing the applicant, addressed the Agency. William Kenley, CEO, spoke on behalf of the project. Steve Sloan, CFO, was present on behalf of the project.

Ms. Coile moved for approval of the project based on: 1) Need - The need has been proven as procedure numbers are well over the Guidelines for magnetic resonance imaging (MRI) usage, they are the only provider of MRI services in Robertson County and will help reduce the wait times for the patients in their service area; 2) Economic Feasibility – The project is economically feasible and cash reserves are available for funding; and 3) The project does contribute to the orderly development of adequate and effective health care. They are a TennCare provider serving above the amount of TennCare residents in the County, and the community is in support of the project. Ms. Cunningham seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Coile, Troy, Koella, Cunningham, Weaver, Caldwell

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NAY: None

Appalachian Orthopaedic Associates, P.C. - (Kingsport, Sullivan County) - Project No. CN0406-055

The initiation of magnetic resonance imaging services (MRI) limited to the physician practice at 2323 Pavillion Drive, Suite 100, Kingsport, Tennessee, 37660. If the project is approved, Appalachian Orthopaedic Associates, P.C. intends to lease equipment, space and staff to Indian Path Medical Center, CN0406-054, on a part-time basis. The estimated project cost represents the aggregate expense for a five (5) year equipment lease and ten (10) year property lease. Other than the MRI, the project does not contain any major medical equipment and does not initiate or discontinue other health services. No inpatient beds are requested in this application. Project Cost \$1,938,362.00.

Richard Lodge, Esq., representing the applicant, addressed the Agency. Dr. Howard Mize, Jr., spoke on behalf of the project and Dan H. Elrod, Esq., spoke on behalf of Indian Path Medical Center's support of the project.

Mr. Koella moved for approval of the project based on: 1) Need – The need is evident as there is currently a ten (10) day wait; 2) Economic Feasibility – The project is economically feasible with cash reserves and operating lease being available; and 3) The project does contribute to the orderly development of adequate and effective health care as the licenses are current, TennCare contracts have recently been signed, and there is a sharing arrangement which is very efficient. **CONDITION: Limited to the patients of the medical group.** Ms. Cunningham seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Coile, Troy, Koella, Cunningham, Weaver, Caldwell

NAY: None

Indian Path Medical Center - (Kingsport, Sullivan County) - Project No. CN0406-054

The establishment of an outpatient diagnostic center (ODC) and the initiation of magnetic resonance imaging services (MRI) at 2323 Pavillion Drive, Suite 100, Kingsport, TN 37660. If the companion project for Appalachian Orthopaedic Associates, P.C., CN0406-055 is approved, Mountain States Health Alliance will enter into a lease agreement that allows Indian Path Medical Center to use equipment, space and staff on a part-time basis for the provision of MRI services operated under existing hospital licensure. The estimated project cost is \$1,840,400 which represents the aggregate expense of the initial (five-year) term of the lease agreement with Appalachian Orthopaedic Associates, P.C. Project Cost \$1,840,400.00.

Dan H. Elrod, Esq., representing the applicant, addressed the Agency.

Mr. Koella moved for approval of the project based on: 1) Need – The need is evident as there is currently a seven (7) to ten (10) day wait; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care as they are licensed, and are a strong TennCare and charity care provider. **CONDITION: Limited to an outpatient diagnostic center (ODC) with magnetic resonance imaging (MRI) equipment that was approved in the Appalachian Orthopaedic Associates, P.C., Certificate of Need, CN0406-055A.** Ms. Coile seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Coile, Troy, Koella, Cunningham, Weaver, Caldwell

NAY: None

Tri-Cities Surgery Center - (Bristol, Sullivan County) - Project No. CN0406-056

The establishment of an ambulatory surgical treatment center (ASTC) to be located at Renaissance Park, Bristol West Boulevard, Bristol, Tennessee 37620. The ASTC will have two (2) operating rooms and one (1) treatment room. Project Cost \$3,495,000.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Dr. Jim Brasfield and Eddie A. George, President/CEO, spoke on behalf of the project.

Ms. Cunningham moved for approval of the project based on: 1) Need – The need is evident with normal population growth, increasing elderly population growth, the increased need for pain management facilities and the overall growth of these practices. It meets and exceeds the Guidelines for Growth. Other area ambulatory surgical treatment centers are functioning above growth guidelines as well; 2) Economic Feasibility – The project

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is capitalized by operating lease, members and loan; and 3) The project does contribute to the orderly development of adequate and effective health care as they are TennCare providers, they have a very creative and amicable collaboration with the hospital and area physicians. Moving outpatients procedures to a dedicated outpatient facility will be orderly for patients as well. Staffing concerns have been addressed. Ms. Troy seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Coile, Troy, Koella, Cunningham, Weaver, Caldwell
NAY: None

BioImaging at Charlotte, Inc. - (Memphis, Shelby County) - Project No. CN0406-057

The establishment of an outpatient diagnostic center (ODC) and the initiation of magnetic resonance imaging (MRI) services. The establishment of this ODC will be effected by the purchase of the existing Park Avenue Imaging Center at 5190 Park Avenue, Memphis, TN 38119, including two (2) MRI units, one (1) computerized tomography (CT) unit, and related imaging equipment. The Park Avenue Imaging Center is currently being operated under a private practice exemption, therefore, the approval of this ODC will not result in the addition of new MRI units in the service area. The only major medical equipment involved is for MRI services. No other health services will be initiated or discontinued. Project Cost \$4,684,219.84.

DEFERRED TO THE OCTOBER MEETING

Sumner Regional Medical Center - (Gallatin, Sumner County) - Project No. CN0406-058

The initiation of mobile positron emission tomography (PET) services to be operated on the hospital campus one day per month under the hospital licensure. The service will be provided by a mobile vendor docking at the hospital's mobile services pad on the campus. The hospital will remain licensed as a 145 bed general hospital. The project does not contain any major medical equipment or initiate or discontinue any other health service; and it will not affect the hospital's licensed bed complements. Project Cost \$91,500.00.

DEFERRED TO THE NOVEMBER MEETING

GENERAL COUNSEL'S REPORT

White House Health Care - Project No. CN9409-062A

Request for extension of expiration date from December 12, 2005 to September 1, 2006.

E. Graham Baker, Esq., representing the applicant, addressed the Agency and Dixie Taylor Huff spoke on behalf of the request.

Ms. Coile moved to extend the expiration date from December 12, 2005 to December 31, 2006. Ms. Weaver seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Coile, Troy, Koella, Cunningham, Weaver, Caldwell
NAY: None

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

Finance, Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

The minutes of the August 25, 2004 meeting were accepted by unanimous voice vote.

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH/mab